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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Bryan Barten,

10 Plaintiff,

11 v.

12 State Farm Mutual Automobile Insurance  
13 Company,

14 Defendant.

No. CV-23-00267-TUC-CKJ (MSA)

**SCHEDULING ORDER**

15 **IT IS ORDERED:**

16 1. **Initial Disclosures:** The deadline for exchanging initial disclosures, if they  
17 have not already been exchanged, is **October 27, 2023**.

18 2. **Joinder of Parties and Amendment of Pleadings:** The deadline for joining  
19 parties and amending pleadings is **November 10, 2023**.

20 3. **Discovery:** Fact discovery shall be completed no later than **May 31, 2024**.  
21 Written discovery must be served sufficiently in advance of this deadline to allow time for  
22 the opposing party to answer and for the requesting party to complete any additional  
23 discovery made necessary by the answers.

24 A. The parties shall file a notice of service of discovery rather than copies  
25 of actual disclosures. LRCiv 5.2.

26 B. Discovery shall be governed by the limitations set forth in the Federal  
27 Rules of Civil Procedure. Leave of Court is required for any divergence from the  
28 rules.

1 C. Notwithstanding Local Rule of Civil Procedure 7.3, the parties may  
 2 mutually agree in writing, without court approval, to extend the time provided for  
 3 discovery responses in Federal Rules of Civil Procedure 33, 34, and 36, but such  
 4 agreed-upon extensions shall not alter or extend the deadlines set forth in this Order.

5 D. The parties shall not file written discovery motions without leave of  
 6 Court. In the event of a dispute over discovery matters, the parties must make a  
 7 sincere effort to resolve the conflict expeditiously. LRCiv 7.2(j). If a dispute cannot  
 8 be resolved, counsel should jointly call Judge Aguilera's law clerk at (520) 205-  
 9 4631 and provide a brief summary of the dispute and the parties' respective  
 10 positions. Depending upon the nature of the dispute, the Court may set a telephonic  
 11 conference, order written briefing, or decide the dispute without a conference or  
 12 briefing. Absent extraordinary circumstances, the Court will not entertain discovery  
 13 disputes after the deadline for completion of discovery. Delay in presenting  
 14 discovery disputes for resolution is not a basis for extending discovery deadlines.

15 E. The parties and counsel are reminded of their duty to supplement all  
 16 disclosures and responses to discovery requests. Fed. R. Civ. P. 26(e).

17 4. **Expert Disclosures:** The deadline for disclosure of Plaintiff's initial expert  
 18 testimony is **July 1, 2024**. The deadline for disclosure of Defendant's rebuttal expert  
 19 testimony is **August 2, 2024**. Rebuttal experts shall be limited to responding to opinions  
 20 stated by initial experts. Expert discovery shall be completed no later than **September 30,**  
 21 **2024**.

22 5. **Dispositive Motions:** The deadline to file dispositive motions is **November**  
 23 **29, 2024**.

24 A. Absent leave of Court, each party shall file no more than one motion  
 25 for summary judgment under Federal Rule of Civil Procedure 56.

26 B. All motions, memoranda, and pleadings submitted for the Court's  
 27 review and decision must comply in all respects with the Federal Rules of Civil  
 28 Procedure and the Local Rules of Civil Procedure. The parties are advised to pay

particular attention to Local Rules of Civil Procedure 7.2 and 56.1. Noncompliance with the local rules or failure to timely file required answering memoranda may result in the summary disposition of a motion pursuant to Local Rule of Civil Procedure 7.2(i).

C. Any filing which is submitted with more than one exhibit must be accompanied by a table of contents and indexed with tabs corresponding to the table of contents.

D. Courtesy copies of filings should be printed directly from CM/ECF.

6. **Good-Faith Settlement Negotiations:** The parties are encouraged to discuss settlement at all times during the pendency of this litigation. The district judge will set a settlement conference before a different magistrate judge upon request of the parties. Counsel shall file a brief joint settlement status report (containing no specific settlement terms or offers) on or before **November 17, 2023**, and every **60 days** thereafter. The parties shall promptly notify the Court if settlement is reached during the course of this litigation.

7. **Joint Proposed Pretrial Order:** A joint proposed pretrial order shall be filed within **45 days** after resolution of any dispositive motions filed. If no such motions are filed, a joint proposed pretrial order will be due on or before **December 13, 2024**. The content of the joint proposed pretrial order shall include, but not be limited to, that prescribed in the form of pretrial order attached to this Order. Preparation and filing of the joint proposed pretrial order in accordance with the requirements of this Order will be deemed to satisfy the disclosure requirements of Federal Rule of Civil Procedure 26(a)(3). The parties must exchange drafts of the joint proposed pretrial order at least **14 days** before the submission deadline. Plaintiff must initiate communications concerning the joint proposed pretrial order.

A. Pursuant to Federal Rule of Civil Procedure 37(c), the district judge could preclude the parties from offering any exhibit, witness, or other evidence that was not (a) disclosed in accordance with the provisions of this Order or the Federal Rules of Civil Procedure and (b) listed in the joint proposed pretrial order, unless


1 the offering party can show good cause as to why such party failed to comply with  
2 these requirements.

3 B. The parties must exchange exhibits to be used at trial at least **14 days**  
4 before the submission deadline for the joint proposed pretrial order. Any exhibit not  
5 marked and exchanged at this meeting may be precluded at trial. The exhibits must  
6 be numbered and marked in accordance with the instructions found at  
7 <<https://www.azd.uscourts.gov/judges/judges-orders>> under the heading “Standard  
8 Procedures Used by All Tucson Judges.” The exhibit numbers must correspond to  
9 the exhibit numbers listed in the joint proposed pretrial order.

10 8. **Final Pretrial Conference:** The parties who will be trying the case shall  
11 appear at the final pretrial conference, to be set by later order of the district judge.

12 9. **Sanctions:** The parties and their counsel are cautioned that the deadlines set  
13 in this Order will be strictly enforced and may be modified only for good cause and with  
14 leave of Court. The parties are warned that failure to meet any of the deadlines in this Order  
15 or in the federal or local rules without substantial justification may result in sanctions,  
16 including dismissal of the action or entry of default. Motions to extend any of the deadlines  
17 set forth above must be filed prior to the expiration of the deadlines that the movant seeks  
18 to extend.

19 Dated this 17th day of October, 2023.

20   
21 Honorable Maria S. Aguilera  
22 United States Magistrate Judge  
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